

**OPINION**  
**57-67**

June 5, 1957            (OPINION)

COUNTIES

RE: Parks - Levy Includes Entire County

This is in reply to your request for information regarding county parks and recreational areas.

We are enclosing herewith a copy of House Bill No. 584 passed by the 1957 Session of the Legislative Assembly. In so far as it amends 11-2806 of the 1953 Supplement to the N.D.R.C. of 1943, we assume it is the legislation to which you have reference. It is possible, however, that further legislation in this field will appear in the 1957 Session Laws, and can be more readily found through the index thereto. I understand that same will be available about June 15, 1957.

I believe that your specific questions are answered in section 11-2806 of the 1953 Supplement to the N.D.R.C. of 1943 as amended by this bill. Thus it provides that: "\* \* \* the board of county commissioners \* \* \* shall levy each year \* \* \* a tax \* \* \* not exceeding one-half mill on each dollar of the taxable valuation of the county, which tax may be levied in excess of the mill limit fixed by law for taxes for general purposes." It further provides that: "No levy in excess of one-half mill shall be made without approval of the eligible voters in the county at a special or general election." From this language it would be our conclusion that one-half mill can be levied without submission of the matter to the voters. Such levy in the words of the statute can be "levied in excess of the mill limit fixed by law for taxes for general purposes."

We find no exception in either this bill or in chapter 11-28 of the 1953 Supplement excepting cities and villages generally from the tax levy. In the express words of the statute the board is required to "levy each year upon all taxable property in the county" which leads us to the conclusion that cities and villages are not to be excepted from such tax, except as specifically provided in the last sentence of Section 12 of said bill, to-wit: This levy shall not apply to cities or villages that already have a park levy, unless the governing body of such city or village by resolution consents to such levy.

LESLIE R. BURGUM

Attorney General